

GOVERNMENT OF TELANGANA  
ABSTRACT

Tribal Welfare Department - Adilabad District- Revision Petition filed by Sri Bathula Pochaiah S/o Nagaiah Occ: Agriculture, R/o: Nelki Venkatapur(V) Dandepalli (M) Adilabad District against the Orders of the Additional Agent to Government and Project Officer, ITDA, Utnoor, Adilabad District in Case No.A4/LTR/01/2005, Dt:26.05.2007 - Dismissed - Orders - Issued

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TRIBAL WELFARE (LTR)DEPARTMENT

G.O.Ms.No. 5

Dated: 30-05-2020  
Read the following:-

- 1) Revision Petition filed by Sri Bathula Pochaiah S/o Nagaiah R/o NalkiVenkatapur (V),Dandepalli (M)AdilabadDistrict Dt:16.06.2007.
- 2) Govt.Memo No.4244/LTR-/2007,dt:18.07.2007 & 02.08.2007.
- 3) From the Addl.Agent to Govt. Adilabad, Utnoor, Lr.No.A4/01/2005, Dt:06.09.2007.
- 4) Govt.Lr.No.4244/LTR-2/2007,dt:19.03.2008,17.06.08, 19.07.08, 22.12.2008,10.06.2010,9.02.2015,18.03.2015, 30.06.2017, 08.09.2017, 14.03.2018, 26.04.2018 , 22.06.2018, 03.08.2018 and 27.11.2019

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ORDER

In the reference 1<sup>st</sup> read above, Sri Bathula Pochaiah, S/o: Nagaiah, R/o: Nelki Venkatapur (V) Dandepalli (M) Adilabad District has filed Revision Petition through his counsel before the Government aggrieved by the orders of the Additional Agent to Government & Project Officer, ITDA, Utnoor, Adilabad District in Case No.A4/LTR/01/2005, Dt:26.05.2007 in respect of land to an extent of Ac.1-38 guntas in Sy.No. 242 situated at Nelki Venkatapur Village of Dandepally Mandal, Adilabad District.

2) In the reference 2<sup>nd</sup> read above, Government granted Stay on the orders of the Project Officer & Additional Agent to Government, Utnoor, Adilabad until further orders and he was requested to furnish Para Wise Remarks and connected case records and in the reference 3<sup>rd</sup> read above the Additional Agent to Government & Project Officer, ITDA, Utnoor, Adilabad has furnished Para Wise Remarks and connected case records.

3) The Main grounds of the case are as follows:

- Case finally called on 7.12.2019. Both the petitioner and his counsel were present. Counsel for petitioner filed written arguments. Tahsildar, Dandepalli Mandal, Adilabad District also present and produced record.

Case was previously called on:

27.3.2008	..	Counsel present. Adjourned.
30.6.2008	..	Counsel present. Adjourned.
4.8.2008	..	Adjourned.
31.12.2008	..	Counsel present. Adjourned.
11.5.2009	..	Adjourned.
24.6.2010	..	Counsel present. Adjourned.
26.2.2015	..	Petitioner present. Adjourned.
22.7.2017	..	Counsel present. Adjourned.
24.3.2018	..	Adjourned.
5.5.2018	..	Adjourned.
7.7.2018	..	Adjourned.
18.8.2018	..	Adjourned.

Perused the record.

- Initially, the case was taken up by the Special Deputy Collector (Tribal Welfare) Utnoor vide Case No.TWA1/43/2004 on the basis of a report/list furnished by the Deputy Tahsildar O/o Special Deputy Collector (Tribal

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Welfare) Uttoor related to land transaction taken place in respect of Sy.No.242 measuring Acs.1.38 situated at Nelki Venkatapur village of Dandepalli Mandal in Adilabad District believing that the transaction of the immovable property was made in contravention of sub-section (1) of Section (3) of APSA LTR 1959 R/W Act 1 of 1970 and hearings conducted.

- On 29.12.2004, the Special Deputy Collector(Tribal Welfare), Uttoor had passed orders as follows:
  - ❖ Respondent Sri Bathula Pochaiah though attended the court on different dates failed to produce documentary evidence in support of his claim of purchase in 1969.
  - ❖ Revenue records i.e. pahanies were verified and found as follows:
    - ❖ 1969-70 Madipalli Mallaiah is Pattedar and Cultivator
    - ❖ 1978-79 Madipalli Mallaiah is Pattedar and Bathula Pochaiah is cultivator
    - ❖ 1982-83 Madipalli Mallaiah is Pattedar and Bathula Pochaiah is cultivator
    - ❖ 1990-91 Madipalli Mallaiah is Pattedar and Bathula Pochaiah is cultivator
  - ❖ The claim of respondent that he purchased the land through ordinary sale deed on 15.12.1969 was not relied upon as it was not supported by Pahani records.
  - ❖ Revenue records i.e. pahani shows that the respondent Sri Battula Pochaiah came into possession of land after 03.02.1970 in contravention of provisions of sub-section 1 of section 3 of APSA LTR 1959 R/W 1 of 1970.
  - ❖ Thus, transaction took place between two non-tribals in notified tribal village i.e. Nelki Venkatapur in Dandepalli Mandal after Regulation I of 1970 came into force w.e.f. 3.2.1970.
  - ❖ Hence, in exercise of powers conferred u/s 3 (2) of APSA LTR 1959 R/W 1 of 1970, ejectment of respondent from suit land in Sy.No.242 measuring Acs.1.38 gts. situated at Nelki Venkatapur (v) was ordered for taking over into Government custody until further orders.
- Aggrieved by the above orders of the Special Deputy Collector (Tribal Welfare) Uttoor, Sri Bathula Pochaiah had filed an Appeal before the Additional Agent to Government & Project Officer, ITDA, Adilabad, Head quarters at Uttoor vide Case No.A4/LTR/01/2005, dt.26.5.2007 which was disposed off on 26.5.2007 upholding orders of the Special Deputy Collector (Tribal Welfare) Uttoor – Gist of the grounds of Appellant and findings are as follows:
  - He purchased the land on 5.12.1969 for a consideration of Rs.6,500/- from Sri Medipalli Mallaiah S/o Mallaiah and seller delivered possession on the same day and since then purchaser is in continuous possession of suit land.
  - He is a poor rustic and uneducated villager does not know the intricacy of law and patwari might have maintained the entries in the Revenue records.
  - Appellant spent huge amount on suit land for its development.
  - Contention of Appellant is that there are three villages by name Venkatapur in erstwhile Luxettipet Taluq – one is Nelki Venkatapur in Dandepally circle, second is Zenda Venkatapur in Luxettipet circle and third one is Venkatapur in Mandamarri circle. In Scheduled Area Part-B States Order, there is only mention of name of village as Venkatapur unless there is statutory clarification in this regard, the APSA LTR 1959 or any such act cannot be applied to the lands of Nelki Venkatapur. Hence, requested to set aside order of lower court in the interest of justice.

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Seller viz., Medipalli Mallaiah admitted that suit land was sold by him to Sri B.Pochaiah through ordinary sale deed in the year 1969.

- Verified pahanies – 1969-70 name of Medipalli Mallaiah S/o Mallaiah found in both pattedar and possessor column; in pahanies 1978-79, 1982-83 and 1990-91 name of Medipalli Mallaiah found in patedar column and name of Bathula Pochaiah found in possessor column and in cultivator column mentioned as Kharidi.
- Appellant has not filed any other proof documents or link document that the transaction took place in the year 1969.
- There are (2) villages by name Venkatapur in erstwhile Luxedttipet Taluq which was declared as Agency area under Part-B States Order, 1950. To distinguish among two villages, NELKI was added to Venkatapur now in Dandepally Mandal. The Zenda Venkatapur village is in Luxettipet Mandal. The Venktapur village of Mandamarri Mandal pertains to Chennur erstwhile Taluq. Hence, it is clear that Nelki Venkatapur is notified agency area declared under Scheduled Aras Part-B States Order, 1950 and there is no need to sought any clarification.
- As name of Appellant found in records from 1978-79 i.e. after the commencement of Regulation I of 1970 came into force w.e.f. 3.2.1970, the transaction between two non-tribals becomes null and void. Therefore, upheld orders of lower court i.e. Special Deputy Collector (Tribal Welfare) Utnoor and directed the Tahsildar, Dandepally Mandal to assign the land to landless tribals as per rules.

Aggrieved by the above orders of the Additional Agent to Government & Project Officer ITDA Utnoor, the Revision Petitioner viz., Bathula Pochaiah has filed Revision Petition before the Government U/s.6 of APSA LTR Act, 1959 R/W 1/70 on 18.6.2007 against (4) respondents i.e. 1) Additional Agent to Government & Project Officer ITDA Adilabad Head quarters at Utnoor; 2) Special Deputy Collector (TW) Utnoor; 3) Medipalli Mallaiah S/o Mallaiah R/o Nelki Venkatapur village and 4) Tahsildar, Dandepally Mandal of Adilabad District urging the following grounds:

- 2<sup>nd</sup> Respondent issued notice on 27.2.2004. After receiving Notice, submitted explanation with documentary evidence. Seller was also examined and proved that petitioner purchased the land much prior to Act 1/70 came into force.
- Subsequently, no notice was issued no chance of personal hearing was given to the petitioner and all of a sudden of 29.12.2004, 2<sup>nd</sup> respondent passed ejectment order on suo-moto without complaint from any corner and without giving any opportunity to the petitioner, which is nothing but depriving right of petitioner and contrary to principles of natural justice.
- Though the petitioner produced the vendee as witness before the 2<sup>nd</sup> respondent and clearly stated that he sold the land much prior to coming into force of the act 1/70, the 2<sup>nd</sup> respondent without considering this evidence and even without recording his evidence, passed judgement.
- Even before the appellate authority also the vendee came forward and gave evidence but in that order also his evidence was not considered. Therefore, both the authorities passed the ejectment order in a routine manner.
- After purchasing the land, the petitioner developed the land by digging a well and raising various crops and spent lot of amount for development of the land by raising loans.
- Petitioner is a poor non-tribal and not having any source of income for his livelihood.

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- Petitioner is in possession of land from the date of purchase in the year 1969 and provisions of LTR have no application to the case of the petitioner. In fact village of Nelki Venkatapur will not come under scheduled area – therefore, question of attracting provisions of LTR does not arise.
- The authorities have not applied the correct principles of law and it is only a surmise that is applied in the case.

The Appellate Authority i.e. Project Officer ITDA Utnoor through Lr.No.A4/01/2005, dt.6.9.2007 has submitted original record of lower and appellate courts and also para-wise remarks to the Revision Petition – gist of which is as follows:

- On perusal of file of the Special Deputy Collector (TW) Utnoor bearing No.TWA1/58/2004, notices were issued to the petitioner twice by the Special Deputy Collector (TW) Utnoor. After receipt of notice, petitioner appeared before the Special Deputy Collector (TW) Utnoor and failed to produce any document in support of his claim. Hence, orders were passed by Special Deputy Collector (TW) Utnoor on the basis of material available with him.
- Government may reject the Revision Petition as the case comes under contravention of section 3 (2) of APSALTR 1959 R/W amended Regulation 1 of 1970.

In the written arguments filed by the counsel for petitioner, there are no grounds put forth to support claim of the petitioner.

4) It is a clear case of contravention of the provisions of LTR Act 1959 R/W Act 1 of 1970 wherein the transaction took place between two non-tribals i.e. Revision Petitioner viz., Bathula Pochaiah and seller viz., Medipelli Mallaiah after commencement of the Regulation I of 1970 which came into force w.e.f. 3.2.1970 as seen from the revenue record the name of the revision petitioner found in possessor column in pahani of 1978-79. The sada sale agreement dated 5.12.1969 appears to have been created for the purpose of defeating/circumventing LTR proceedings.

The other contention that there are (3) villages under the name Venkatapur and the village Nelki Venkatapuram does not form part of Agency area as per Scheduled Areas Part-B States Order, 1950, is also not correct and this has been rightly answered by the Appellate authority that one Venkatapur village is in Mandamarri Mandal of erstwhile Chennur erstwhile Taluq while the remaining two Venkatapur villages fall in Dandepalli and Luxepetti Mandals of erstwhile Luxettipet Taluq only. Hence, the Nelki added before Venkatapur village of Dandepalli Mandal is clearly agency village as per Scheduled Areas Part B States Order, 1950.

5) Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Govt., Utnoor, Adilabad District and in view of the observations made in above para, do not find any merits in the Revision Petition filed by Sri Bathula Pochaiah S/o Nagaiah Occ: Agriculture, R/o: Nelki Venkatapur(V) Dandepalli (M) Adilabad District and accordingly hereby DISMISS the Revision Petition and upheld the orders of the lower and appellate in Case No.TWA1/43/2004, dt.29.12.2004 and Case No.A4/LTR/01/2005, dt.26.5.2007 respectively related to the land in Sy.No.242 admeasuring Acs.1.38 gts stand patta in the name of Medipalli Mallaiah while the revision petitioner Bathula Pochaiah is in possession through Kharidi from 1978-79 in contravention of provisions of LTR Act 1959 as amended by Regulation I of 1970.

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6) The Additional Agent to Government and Project Officer, ITDA, Utnoor, Adilabad District shall take necessary further action accordingly. The original case records received in the reference 3<sup>rd</sup> read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU  
SECERETARY TO GOVERNMENT

To

- 1) Sri Bathula Pochaiah S/o Nagaiah,  
R/o Nalki Venkatapur (V) Dandepalli (M) Adilabad District.
- 2) Sri Medipalli Mallaiah, S/o: Nagaiah, R/o Nalki  
Venkatapur (V) Dandepalli (M) Adilabad District.
- 3) The Project Officer, ITDA and Additional Agent to Government,  
Utnoor, Adilabad District(w.e.)

Copy to :

The Special Deputy Collector(TW), Utnoor, Adilabad District  
The Tahsildar, Dandepalli Mandal , Adilabad District for necessary action.  
Sri S. Surender Reddy, Advocate, Flat No.16, Block No.33, MIG-II,  
Baghlingampally, Hyderabad -44.  
P.S to M(TW)/P.S. to Prl.Secretary(TW)

//FORWARDED:: BY ORDER//

SECTION OFFICER